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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,395	03/01/2002	James R. Lewis	BOC9-2001-0019 (264)	1307

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EXAMINER	
SHORTLEDGE, THOMAS E	
ART UNIT	**PAPER NUMBER**
2654	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,395	LEWIS ET AL.	
	Examiner	Art Unit	
	Thomas E Shortledge	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 11-17* is/are rejected.

7)☒ Claim(s) *8-10 and 18-20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *3/01/2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/12/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. Claims 8-10 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. The following is a statement of reasons for the indication of allowable subject matter:

Claims 8 and 18 discloses receiving a speech sample of a predetermined length, receiving additional shadowed speech, and selectively replacing a portion of said speech sample with a portion of the additional shadowed user speech.

Lewis et al. teach outputting predetermined speech, and receiving a shadowed speech from the user. However, Lewis et al. do not teach selectively replacing a portion of said speech sample with a portion of the additional shadowed user speech.

Claims 9 and 19 discloses receiving a speech sample comprising more than a predetermined minimum amount of shadowed user speech, and selectively excluding a portion of said speech sample from said enrollment step.

Lewis et al. teach receiving a speech sample; however, Lewis does not teach the speech sample comprises more than a predetermined minimum amount of shadowed

user speech, nor selectively excluding a portion of said speech sample from said enrollment step.

Claims 10 and 20 discloses receiving shadowed speech simultaneously with said playing of the enrollment script.

Lewis et al. teach receiving input speech matching the output voice, however, Lewis does not teach receiving the input speech simultaneously with playing of the enrollment script.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,324,507. Although the conflicting claims are not identical, they are not patentably

distinct from each other because by removing inherent and/or unnecessary limitations/steps in the claims would be within the level of one of ordinary skill in the art. It is well settled that the omission of a step/element, e.g. "repeating said steps of audibly playing...etc.", and its function is an obvious expedient if the remaining elements/steps perform the same function as before. *In re Karlson, 136 USPQ 184 (CCPA 1963).* Also note Ex parte Rainu, *168 USPQ 375 (Bd. App. 1969).* Omission of a reference element or step whose function is not needed would be obvious to one of ordinary skill in the art.

Claims 1 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,560,574. Although the conflicting claims are not identical, they are not patentably distinct from each other because by removing inherent and/or unnecessary limitations/steps in the claims would be within the level of one of ordinary skill in the art. It is well settled that the omission of a step/element, e.g. "repeating said steps of audibly playing...etc.", and its function is an obvious expedient if the remaining elements/steps perform the same function as before. *In re Karlson, 136 USPQ 184 (CCPA 1963).* Also note Ex parte Rainu, *168 USPQ 375 (Bd. App. 1969).* Omission of a reference element or step whose function is not needed would be obvious to one of ordinary skill in the art.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-7 and 11-17 are rejected under 35 U.S.C. 102(a) as being anticipated by Lewis et al. (6,324,507).

As to claims 1 and 11, Lewis et al. teach:

playing an audio representation of an enrollment script (an enrollment script containing a sampling of sounds, col. 3, lines 20-22);

as said enrollment script is playing, receiving shadowed speech from a user wherein said shadowed speech lags the enrollment script, (after each phrase is read the user speaks them back, col. 4, lines 5-7);

Lewis et al. teach recording said received shadowed speech for enrolling the user into the speech recognition system (receiving a users input speech, and monitoring the process of the user, as the input is received (col. 5, lines 40-59). It is inherent within the method of enrollment that as the system accepts the input the input is recorded).

As to claims 2 and 12, Lewis et al. teach enrolling the user in the speech recognition system by constructing acoustic models based upon the enrollment script

and said received shadowed speech, (enrolling the user using an enrollment script, col. (5, lines 40-59). It is inherent within the method of enrolling a user, acoustic models are constructed based on the users input).

As to claims 3 and 13, Lewis et al. teach playing a recording of a human voice dictating the enrollment script, (the instructions are played in voice 1 and the text phrases are in voice 2, col. 5, lines 40-59).

As to claims 4 and 14, Lewis et al. teach playing the enrollment script using a text-to-speech system, (phrases are generated by a text-to-speech engine, col. 3, 50-51).

As to claims 5, and 15, Lewis et al. teach pausing said playing of the enrollment script responsive to a user input, (the user is able to dictate use "Go-back" or "Repeat" commands to pause the voice output and re-dictate the current phrase, col. 4, lines 30-40).

As to claims 6 and 16, Lewis et al. teach resuming said playing of the enrollment script responsive to a user input, (the user is able to dictate use "Go-back" or "Repeat" commands to pause the voice output and re-dictate the current phrase, to resume playing at the correct line, col. 4, lines 30-40).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. as applied to claims 1 and 11 above..

As to claims 7 and 17, Lewis et al. teach:

monitoring said received shadowed speech and said playing of said enrollment script, (the system monitors how far along the user is in enrollment process, col. 5, liens 40-60); and,

selectively altering the playback speed of the enrollment script according to said monitoring step, (if the input is found to be unacceptable, the system has the phrase repeated (col. 4, lines 54-65). It would be obvious to one of ordinary skill in the art at the time of the invention that when the system asks for a phrase to be repeated, the system would also be slowing down the output, pausing the subsequent phrases till the current user input phrase is accepted by the system).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Kato (6,687,604), Yaker (5,950,167), Fado et al. (6,459,973), Brooks et al. (6,477,493), Lewis et al. (US 2002/0091519).

Kato teaches an in-vehicle navigation system using audio manipulation and an enrollment process.

Yaker teaches controlling computer programs from a telecommunications terminal without the benefit of any user interaction with a screen display.

Fado et al. teach using a text-to-speech (TTS) for the conversion of textual instructions to control computer tasks.

Brooks et al. teach using an enrollment script to enroll the user in the speech recognition system by decoding the recording and training the speech recognition system.

Lewis et al. enrolling a user in a speech recognition system without requiring reading.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas E Shortledge whose telephone number is (571)272-7612. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Smits can be reached on (571)272-7628. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TS
4/27/05

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER